

No. 15-1720

*In the*  
**United States Court of Appeals**  
*for the*  
**Fourth Circuit**

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UNITED STATES *ex rel.* SZYMONIAK,  
*Plaintiff-Appellant,*

v.

AMERICAN HOME MORTGAGE SERVICING, INC;  
SAXON MORTGAGE SERVICES INC.; LENDER PROCESSING  
SERVICES INC.; DOCX LLX; BANK OF NEW YORK MELLON  
CORPORATION; DEUTSCHE BANK NATIONAL TRUST COMPANY;  
DEUTSCHE BANK TRUST COMPANY AMERICAS;  
HSBC USA NATIONAL ASSOCIATION,  
*Defendants-Appellees.*

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**APPELLEES' JOINT MOTION FOR AN EXTENSION OF TIME  
WITHIN WHICH TO FILE AN ANSWERING BRIEF**

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Pursuant to Federal Rules of Appellate Procedure 26(b) and 27(a) and Fourth Circuit Rule 31(c), appellees American Home Mortgage Servicing, Inc; Saxon Mortgage Services Inc.; Lender Processing Services Inc.; DocX LLX; Bank of New York Mellon Corporation; Deutsche Bank National Trust Company; Deutsche Bank Trust Company Americas; HSBC USA National Association, respectfully request a 45-day extension

of time within which to file an answering brief, to and including December 17, 2015. In support of this motion, appellees state as follows:

1. Appellant filed her notice of appeal on June 26, 2015, and this Court docketed the appeal on June 30, 2015.

2. On September 28, 2015, appellant filed a timely opening brief. According to this Court's August 19, 2015 briefing order, the answering brief will be due, without extension, on November 2, 2015.

3. The time for filing an answering brief has not previously been extended.

4. This is a False Claims Act case concerning alleged claims for payment purportedly submitted to the government in connection with the Federal Housing Administration's mortgage insurance program. At the heart of this appeal is the question whether the plaintiff's False Claims Act complaint satisfies Federal Rule of Civil Procedure 9(b)'s heightened pleading requirements.

5. There is good cause for the requested extension. This case involves eight banking and mortgage-servicing defendants represented by nine different law firms. Counsel for the appellees are working diligently to prepare a single, joint brief. Yet not all of the appellees are situated in the same way, and coordinating a joint brief that is acceptable to each appellee, should one ultimately be possible, will require additional time.

6. A 45-day extension of time will ensure that the issues presented on appeal are thoroughly and thoughtfully briefed for this Court's consideration, and that the appellees have sufficient time to work toward a single, coordinated brief. It will not prejudice the appellant or unduly delay the ultimate disposition of this case.

7. We are mindful that a 45-day extension request is somewhat longer than a typical 30-day request. The additional time is necessary because a 30-day extension (which would make the brief due December 2) would conflict with the parties' and counsel's travel plans over the Thanksgiving holidays, hindering cross-party coordination at a time when it will be most important.

8. Counsel for the appellees have conferred with counsel for the appellant, who have indicated that appellant opposes the motion.

WHEREFORE, appellees respectfully request that the Court issue an order granting a 45-day extension of time within which to file an answering brief, to and including December 17, 2015.

Dated: October 7, 2015

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**CERTIFICATE OF SERVICE**

I certify that the foregoing motion was filed with the Clerk of the Court using the appellate CM/ECF system on October 7, 2015. I further certify that all participants in this case are registered CM/ECF users and that service will be accomplished via CM/ECF.

/s/ Michael B. Kimberly